IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5238 of 2005

Between:

Dantuluru Lakshmi Narasimha Raju S/o Vijaya Narayana Raju
R/o D. No. 11-126, P.M. Palem, Visakhapatnam-40

..... PETITIONER

AND

1 The Mandal Revenue Officer, Chingadili Mandalam, Near Visakha Valley School, Visakhapatnam
2 The District Collector, Visakhapatnam District, Visakhapatnam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the illegal and high-handed action of the respondents in threatening and attempting to demolish petitioner's Thatched house and destroy my Teak Wood plantation and Mango Plantation existing in my land in an extent of Ac.2-70 cents in Sy. No. 1/6 of Madhurawada Village in Visakhapatnam district without following due process of law as illegal, arbitrary, unjust unwarranted, capricious and violative of principles of natural justice and also violative of Articles 21 and 300- a of the Constitution of India; and consequently direct the respondents not to resort to illegal demolition of my Thatched house and destroy the Teak wood plantation and Mango Plantation in the said land except by following due process of law or to pass any other or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR. O.RAMESH

Counsel for the Respondents : GP FOR REVENUE

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.5238 OF 2005

ORDER :

The petitioner claims to be a landless poor person. It is stated that he was granted D-Form patta on 31-01-1979 to an extent of Ac.2.70 cents situated in Sy.No.1/6, Madhurawada Village, Visakhapatnam District and he has been in possession and enjoyment from the year 1970. It is also claimed that a Ryotwari Pass Book was issued in his favour and that his name was mutated in the Adangals and other Revenue Records. The petitioner pleads that he raised 100 Teak Plants and 100 Mango Plants in the said land apart from constructing a thatched house. In the year 2001, when the Mandal Revenue Officer, Chinnagadili Mandal attempted to interfere with his possession and to demolish the house, he filed W.P.No.17687 of 2001 and the same was disposed of with a direction to the District Collector to conduct an enquiry. He states that even thereafter he has been continuing in possession and enjoyment of the land in question. While so, the respondents have been taking steps to reoccupy the lands for the purpose of handing over the same to the A.P. Housing Board. Hence, this writ petition seeking a declaration that the action of the respondents in attempting to demolish the thatched house and destroying the

Teakwood Plantation and Mango Plantation existing on the land in question without following due process of law is arbitrary and illegal.

At the outset, it is to be noted that W.P.No.17687 of 2001 was filed by the petitioner with an identical prayer alleging that the Mandal Revenue Officer, Chinnagadili Mandal attempted to interfere with his possession on 16-08-2001. In the said writ petition, a counter-affidavit was filed by the respondents stating that the D-Form patta produced by the petitioner is a manipulated and fabricated document and that no such patta was issued to the petitioner at any point of time. It was also stated that nobody is in possession and occupation of the said land which is classified as A.W.D. Land. In view of the assertions made by the petitioner that he is continuing in possession, this Court has called for the record and on the basis of the same recorded a finding that the petitioner was not in possession of the said property and directed the District Collector to conduct an enquiry about the alleged D-Form patta issued in favour of the petitioner and after enquiry, if any officer is found responsible for the issuance of such a patta, he shall take appropriate action against the concerned officer including launching of criminal prosecution. Accordingly, the Writ Petition was dismissed. Admittedly, the petitioner has not preferred any appeal against the said order and allowed the same to become final. If that be so, it is not open to the petitioner to reagitate the issue claiming that he has been in possession from the year 1970. On that ground alone, this writ petition is liable to be dismissed.

Though the learned Counsel for the petitioner contends that since the respondents have not yet conducted the enquiry as directed by this Court in W.P.No.17687 of 2001, it has to be taken that the D-Form patta in favour of the petitioner is valid, I am unable to agree. This Court in the said writ petition while taking note of the plea of the respondents that the D-Form patta produced by the petitioner is a fabricated document, ordered as under :

> *"The District Collector is directed to conduct an enquiry about the alleged D-form patta issued in favour of the petitioner and after enquiry, if any officer is found responsible for the issuance of such a patta, he shall take appropriate action against the concerned officer including launching of criminal prosecution."*

Even assuming that such enquiry has not yet been conducted, it cannot be said that the petitioner can reagitate the issue on the basis of the said patta. In the light of the findings recoded in W.P.No.17687/2001, this Writ Petition is misconceived and the same is accordingly dismissed. No costs.

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17th March, 2005.

gbs

To

1 The Mandal Revenue Officer, Chingadili Mandalam, Near Visakha Valley School, Visakhapatnam
2 The District Collector, Visakhapatnam District, Visakhapatnam

3. Two CCs to G.P. for Revenue, High Court of AP Bldgs, Hyderabad (OUT).

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